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Secretary for
Environmental
Protection

California Regional Water Quality Control Board

North Coast Region

William R. Massey, Chairman



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August 5, 2002

Mr. Robert Manne
Chief Executive Officer
The Pacific Lumber Company
P.O. Box 37
Scotia, CA 95565

Dear Mr. Manne:

Subject: Order Requiring Reports of Waste Discharge for Elk River

The Water Quality Control Plan for the North Coast Region (Basin Plan) includes an *Action Plan for Logging, Construction and Associated Activities* (Action Plan). This Action Plan contains a directive that the Regional Water Quality Control Board staff "shall require the submission of Reports of Waste Discharge" when investigations indicate that the beneficial uses¹ of water may be adversely affected by waste discharges."

After evaluating the extensive evidence submitted for hearings on this matter, and reviewing staff investigations of waste discharges in the Elk River area, I find that:

1. discharges of earthen materials to Elk River and its tributaries have resulted from logging, road construction, and related activities;
2. ongoing discharges from historic logging, road construction, and related activities continue to occur with rain events, and from wintertime operations during logging, road construction, and related activities;
3. beneficial uses of Elk River and its tributaries have been adversely affected by these discharges of earthen materials; and
4. wintertime logging, road use, and related activities threaten to continue to adversely affect the beneficial uses of Elk River and its tributaries.

An example of the information leading to my findings is contained within the Environmental Monitor Reports, dated April 3, 2002. These reports indicate that timber operations, including road use during winter, have resulted in discharges of earthen materials to waters of the state. Such discharges further impair the beneficial uses of state waters.

¹ Attachment A contains the list of beneficial uses of Elk River.

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More generally, ample evidence in our files supports the conclusion that timber operations in this watershed have resulted in significant discharges of earthen materials that have adversely affected downstream beneficial uses, contribute to nuisance flooding conditions, and that proposed and continuing operations will continue to do so. These documents include, but are not limited to, the documents listed in Attachment B, all of which Pacific Lumber Company has copies of already and/or are readily available at the Regional Board office.

While the evidence in the files at this time could reasonably support a requirement for reports of waste discharge on all proposed and current operations in this watershed, this order only addresses wet weather operations. Logging, construction and related activities conducted during the rainy season create, in staff's professional judgment, a high level of threat of controllable discharges which would further impair water quality in Elk River.

Accordingly, pursuant to the Basin Plan and Sections 13260 and 13267 of the California Water Code, you are hereby required to submit an adequate report of waste discharge for discharges and threatened discharges associated with operations proposed to be conducted in the Elk River watershed between October 15 and May 1 of each year, starting with October 15, 2002. This requirement to file a report of waste discharge does not extend to emergency abatement activities, habitat restoration work, administrative access for monitoring and similar activities, or activities required or directed by federal or state agencies to mitigate environmental impacts from past operations.

This report of waste discharge may expand on the "winter operation plan" submitted to comply with the Forest Practices Rules, and shall describe the specific means to be utilized to prevent discharges of earthen materials and other wastes to Elk River and its tributaries during specific operations in the winter period. These specific actions shall ensure that water quality objectives are not exceeded by timber harvesting, road construction, and associated activities, and shall address the following:

- All feasible and reasonable methods of discharge controls shall be proposed for implementation;
- An erosion control strategy that shall implement adaptive management techniques and assessment to evaluate practices and recommend needed changes in management each quarter to control discharges.
- Additional discharge elimination necessary to offset any remaining operational-related discharges, which are infeasible or unreasonable to control, with equivalent volume, in-basin discharge controls from natural sediment sources.

Pacific Lumber Company is being asked to provide the requested information because it is the primary landowner and operator conducting timber harvest and related activities in the Elk River and its tributaries, and because the winter timber operations described above will likely result in the discharge of waste to these receiving waters, resulting in violations of the Basin Plan. If you are aware of any other entities performing work that has the same potential for discharges of sediment, we would appreciate receiving that information from you.

Please be advised that until adoption of waste discharge requirements, or a specifically applicable waiver, no discharges or threatened discharges shall occur from logging, road

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construction and use, or other timber operations (see Pub. Resources Code section 4527), except as provided above, between October 15, 2002, and May 1, 2003, in the Elk River drainage until an adequate report of waste discharge is received and the conditions of section 13264 have been satisfied. Failure to comply with this requirement will subject Pacific Lumber Company to liability pursuant to WC 13265(a).

Please call me or my staff at (707) 576-2220 if you have any questions.

Sincerely,

Susan A. Warner
Executive Officer

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cc Ms. Andrea Tuttle, Director, California Director of Forestry and Fire Protection
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Regional Board Members



ATTACHMENT A

Beneficial Uses of Elk River and its Tributaries:

- a) municipal and domestic supply
- b) agricultural supply
- c) industrial process supply
- d) industrial service supply
- e) groundwater recharge
- f) navigation
- g) water contact recreation
- h) non-contact water recreation
- i) commercial and sport fishing
- j) warm freshwater habitat
- k) cold freshwater habitat
- l) wildlife habitat
- m) rare, threatened, or endangered species
- n) migration of aquatic organisms
- o) spawning, reproduction or early development
- p) estuarine habitat



Attachment B

- a. Cleanup and Abatement Order number 98-100 and related files.
- b. The Pacific Watershed Associates 1998 report: "Sediment Source Investigation and Sediment Reduction Plan for the North Fork Elk River Watershed. Humboldt County."
- c. The Regional Board Staff Report dated September 9, 2000, for "Proposed Regional Water Board Actions in the North Fork Elk River, Bear Creek, freshwater Creek, Jordan Creek and Stitz Creek Watersheds."
- d. State Board Order WQO 2002-0004 and the administrative record associated with the Regional Board proceedings challenged in the petition that led up to that order, as those documents relate to Elk River.
- e. The staff reports and all documents submitted by the public in relation to the Regional Board meetings and hearings of February 28 and April 18-19, 2002, regarding Elk River, including an updated "Table 2 (revised) Current and Proposed THPs for the Elk River Watershed," which provides a summary reference listing Pacific Lumber Company's current and proposed THP activities in the watershed.
- f. The staff comments and related documents in the regional board file regarding proposed and active operations in the Elk River watershed.
- g. Reports by the Palco HCP Non-Compliance Reports and Risk of Non-Compliance Reports dated April 3, 2002 ("Environmental Monitor Reports").

